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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE000741

**For a certificate of public convenience
and necessity under the Utility Facilities
Act to develop, construct, own and operate
an intrastate natural gas pipeline**

HEARING EXAMINER'S RULING

April 20, 2001

On April 11, 2001, Virginia Electric and Power Company ("Virginia Power"), by counsel, filed a Motion to Dismiss the Protest filed by Columbia Gas Transmission Corporation ("TCO") in this proceeding. In support of the Motion, Virginia Power argues that TCO has no legitimate interest within the scope of this proceeding and it does not satisfy the requirements of Rule 5:16(b) of the Commission's Rules of Practice and Procedure.

By Hearing Examiner's Ruling entered on April 12, 2001, TCO was given an opportunity to respond to Virginia Power's Motion, on or before April 19, 2001.

On April 17, 2001, the Staff of the State Corporation Commission (the "Staff") filed a Motion to Continue the Public Hearing and Permit the Parties and Staff to File Supplemental Testimony. In support of its Motion, the Staff argued that Virginia Power has yet to file complete information regarding a number of issues related to the application. The Staff further argued that at two local public hearings held on April 9, 2001, citizens raised legitimate concerns about the proximity of the gas pipeline to residences, schools, and recreational areas, that merit additional development through additional discovery and testimony on these issues. The Staff requested that the scheduled April 26, 2001, hearing be continued to allow the Staff, Protestants, and the Company to conduct additional discovery and supplement the testimony already filed in the case. Finally, Staff requests a prehearing conference be held to reschedule the evidentiary portion of the hearing.

The Lake Ridge Parks and Recreation Association, Inc. ("LRPRA") filed a response in support of the Staff's Motion for Continuance. LRPRA believes the additional time will permit the parties to conclude discovery and to engage in discussions which may narrow the issues that need to be addressed at the hearing. Washington Gas Light Company, Columbia Gas of Virginia, and the Virginia Committee for Fair Utility Rates, by counsel, represented that they have no objection to the Staff's Motion.

On April 19, 2001, Virginia Power filed its response to the Staff's Motion for Continuance. Virginia Power stated it is concerned about any delay in the hearing because of the impact it may have on the construction schedule for the pipeline. Virginia Power further stated

that it has had discussions with the Staff and it believes that it can work with the Staff and other participants towards the goal of expeditiously moving the case forward. Virginia Power does not object to a continuance of the hearing.

On April 19, 2001, TCO filed its response to Virginia Power's Motion to Dismiss, in which it argued that TCO has a direct interest in this proceeding. TCO argues that its interest is to ensure that it is treated by Virginia Power in a way that is comparable to the way Virginia Power has treated its affiliate, Dominion Transmission, Inc. ("DTI"), with regard to the technical, engineering and safety requirements, and standards or conditions imposed on gas pipeline companies that utilize Virginia Power rights-of-way when installing gas pipelines in Virginia. TCO further argued that the Commission has, and should, liberally construe the requirements of Rule 5:16(b) of the Commission's Rules of Practice and Procedure to allow expansive participation in administrative proceedings, especially when parties seeking participation advocate investigation of an issue that the Commission, by statute, is required to consider. TCO further argued that, pursuant to § 56-265.2:1 of the Code of Virginia, the Commission is provided broad authority to "consider the effect of the pipeline on the environment, public safety, and economic development in the Commonwealth. . . ." Finally, TCO argued that if Virginia Power were permitted to impose a different standard of pipeline construction and maintenance on TCO than it imposed on DTI, it would have a direct impact on economic development in Virginia.

On April 19, 2001, TCO further filed a Motion to Compel Virginia Power Responses to First Set of Interrogatories of Columbia Gas Transmission Corporation and Response to Staff Motion to Continue. TCO argued that it has propounded reasonable and limited discovery on Virginia Power and it cannot understand the basis of Virginia Power's objections. TCO supports a continuation of the hearing in order for it to be provided a meaningful opportunity to conduct discovery.

I find that the Staff's Motion for Continuance should be granted. There were issues raised in the public hearing held on April 9, 2001, that need to be addressed by the parties before Virginia Power's Application may be approved. A short continuance of the evidentiary hearing is warranted to allow Virginia Power and the Staff an opportunity to investigate and address those issues.

I further find that oral argument on Virginia Power's Motion to Dismiss, and TCO's Motion to Compel Virginia Power Responses to First Set of Interrogatories should be scheduled. Therefore,

IT IS DIRECTED:

- (1) That the Staff's Motion for Continuance is granted;
- (2) That the evidentiary portion of the hearing currently scheduled for April 26, 2001, is continued until a further date to be agreed upon by the parties;

(3) That the hearing scheduled for 10:00 a.m. April 26, 2001, will be convened for the purpose of: (1) receiving comments from interested persons on Virginia Power's Application; and (2) hearing oral argument on Virginia Power's Motion to Dismiss and on TCO's Motion to Compel; and

(4) That at the conclusion of the hearing, a conference with the parties will be convened to identify the critical issues in this case and to schedule a further evidentiary hearing.

Michael D. Thomas
Hearing Examiner